

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,) CASE NO. 4:20-CR-244-O
Government,)
VERSUS) FORT WORTH, TEXAS
DERRICK DAEYON MURRELL (01),) OCTOBER 19, 2020
Defendant.) 2:10 P.M.

UNITED STATES OF AMERICA,) CASE NO. 4:20-CR-246-O
Government,)
VERSUS) FORT WORTH, TEXAS
RICKY BADLEY (01),) OCTOBER 19, 2020
Defendant.) 2:10 P.M.

UNITED STATES OF AMERICA,) CASE NO. 4:20-CR-264-O
Government,)
VERSUS) FORT WORTH, TEXAS
ANTONIO Q. LOPEZ (01),) OCTOBER 19, 2020
Defendant.) 2:10 P.M.

VOLUME 1 OF 1
TRANSCRIPT OF REARRAIGNMENT OR GUILTY PLEA AT ARRAIGNMENT
BEFORE THE HONORABLE JEFFREY CURETON
UNITED STATES MAGISTRATE COURT JUDGE

A P P E A R A N C E S:

FOR THE GOVERNMENT: MS. BRANDIE WADE
UNITED STATES DEPARTMENT OF JUSTICE
NORTHERN DISTRICT OF TEXAS
801 Cherry Street, Suite 1700
Fort Worth, Texas 76102-6882
Telephone: 817.252.5200

1 FOR THE DEFENDANT: MR. WILLIAM D. COX, III
2 Murrell Law Offices of William D. Cox, III
3 325 N. St. Paul Street, Suite 2100
4 Dallas, Texas 75201
Telephone: 214.220.3111

5 FOR THE DEFENDANT: MR. JOHN DONAHUE
6 Badley Law Office of John Donahue
7 204 N. 6th Street
8 Waco, Texas 76701
9 Telephone: 254.752.9090

10 FOR THE DEFENDANT: MR. NAVID ALAGHEBAND ALBAND
11 Lopez The Albond Law Firm, LLC
12 1130 South Henderson
13 Fort Worth, Texas 76104
14 Telephone: 817.626.4500

15 COURT REPORTER: MS. DEBRA G. SAENZ, CSR, RMR, CRR
16 501 W. 10th Street, Room 507
17 Fort Worth, Texas 76102
18 Telephone: 817.850.6661
19 E-Mail: debbie.saenz@yahoo.com

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P R O C E E D I N G S

October 19, 2020 - 2:10 p.m.

(Participants wearing masks)

COURT SECURITY OFFICER: All rise.

(Judge enters)

THE COURT: Thank you. Please be seated.

All right. The Court has three cases that are set for guilty plea at arraignment or rearraignment.

Let's call Cause Number 4:20-CR-244, United States
versus Derrick Murrell.

Is it Murrell?

DEFENDANT MURRELL: Murrell, sir.

THE COURT: Murrell.

So Ms. Brandie Wade is present for the government in all cases, and Mr. William Cox is present for Mr. Murrell.

Cause Number 4:20-CR-246, United States versus Ricky
Badley.

And Mr. John Donahue is present for the defense.

MR. DONAHUE: Yes, sir.

THE COURT: Cause Number 4:20-CR-264, United States
versus Antonio Lopez.

And Mr. Navid Alband is present for the defendant.

MR. ALBAND: Afternoon, Your Honor.

THE COURT: Very good. Is the government ready to proceed?

1 MS. WADE: We are, Your Honor.

2 THE COURT: Are all defendants ready to proceed?
3 Mr. Cox?

4 MR. COX: Yes, Your Honor.

5 THE COURT: Mr. Donahue?

6 DEFENDANT BADLEY: Yes, Judge.

7 THE COURT: And Mr. Alband?

8 MR. ALBAND: We're ready.

9 THE COURT: All right. For this proceeding, I need
10 to have each of the defendants placed under oath. Could I ask
11 you all to stand for just a moment, raise your right hand, and
12 be sworn by my clerk.

13 (Three (3) defendants sworn)

14 THE COURT: Okay. Thank you. You may be seated.

15 There will be some questions propounded to you. You
16 are allowed to wear the mask, if you wish, but please speak up
17 nice and loud and clear if you do wear the mask. My court
18 reporter and I both need to hear your responses. You are free
19 to lower your mask to the extent you feel safe in doing so.
20 We are trying to keep some social distance here, but let's
21 proceed.

22 Would you state your full name for the record,
23 beginning with Mr. Murrell.

24 DEFENDANT MURRELL: Derrick Daeyon Murrell.

25 THE COURT: Thank you. And the middle name is

1 spelled D-A-E-Y-O-N?

2 *DEFENDANT MURRELL:* Yes, sir.

3 *THE COURT:* Thank you.

4 Mr. Badley?

5 *DEFENDANT BADLEY:* Ricky Lynn Badley.

6 *THE COURT:* Thank you.

7 And Mr. Lopez?

8 *DEFENDANT LOPEZ:* Antonio Cornell (phonetic) Lopez.

9 *THE COURT:* Is your name spelled correctly in the
10 indictment or information that has been charged against you?

11 Mr. Murrell?

12 *DEFENDANT MURRELL:* Yes, sir.

13 *THE COURT:* Mr. Badley?

14 *DEFENDANT BADLEY:* Yes, sir.

15 *THE COURT:* Mr. Lopez?

16 *DEFENDANT LOPEZ:* Yes.

17 *THE COURT:* Do each of you understand that you are
18 now under oath and if you answer any of the Court's questions
19 falsely, your answers may later be used against you in a
20 prosecution for perjury or for making a false statement?

21 Do you understand, Mr. Murrell?

22 *DEFENDANT MURRELL:* Yes, sir.

23 *THE COURT:* Mr. Badley?

24 *DEFENDANT BADLEY:* Yes, sir.

25 *THE COURT:* And Mr. Lopez?

1 *DEFENDANT LOPEZ:* Yes, sir.

2 *THE COURT:* You all speak, read, and write the
3 English language?

4 Mr. Murrell?

5 *DEFENDANT MURRELL:* Yes, sir.

6 *THE COURT:* Mr. Badley?

7 *DEFENDANT BADLEY:* Yes, sir.

8 *THE COURT:* And Mr. Lopez?

9 *DEFENDANT LOPEZ:* Yes, sir.

10 *THE COURT:* Do each of you understand that I am
11 conducting this hearing, rather than the district judge in
12 your case, based upon your consent; however, it's the district
13 judge who retains all final decision-making authority over
14 your plea, and it's the district judge who will conduct any
15 sentencing in your case?

16 You understand that, Mr. Murrell?

17 *DEFENDANT MURRELL:* Yes, sir.

18 *THE COURT:* Mr. Badley?

19 *DEFENDANT BADLEY:* Yes, sir.

20 *THE COURT:* And Mr. Lopez?

21 *DEFENDANT LOPEZ:* Yes, sir.

22 *THE COURT:* I have been provided this afternoon
23 documents entitled Consent to Administration of Guilty Plea
24 and Allocution by United States Magistrate Judge, and these
25 consent forms appear to be signed by each of you and your

1 attorney. Is it your signature on your consent form?

2 Mr. Murrell?

3 *DEFENDANT MURRELL:* Yes, sir.

4 *THE COURT:* Mr. Badley?

5 *DEFENDANT BADLEY:* Yes, sir.

6 *THE COURT:* And Mr. Lopez?

7 *DEFENDANT LOPEZ:* Yes, sir.

8 *THE COURT:* Then I find that each of you have
9 knowingly and voluntarily waived your right to enter a guilty
10 plea before the district judge, and you've consented to
11 proceed before me in that plea today.

12 Let me give you some general instructions. You may,
13 if you choose, plead not guilty to any offense charged against
14 you or persist in that plea if it's already been made, and if
15 you plead not guilty, the Constitution of the United States
16 guarantees you the following rights:

17 You have the right to a speedy and public jury trial
18 in this district.

19 You have the right at such a trial for you to
20 confront, that is, to see, hear, and cross-examine all
21 witnesses against you.

22 You have the right to use the power and the process
23 of this court to compel the production of any evidence,
24 including the attendance of any witnesses on your behalf.

25 You have the right to have the assistance of an

1 attorney at all stages of the proceedings, and if you could
2 not afford an attorney, I would appoint an attorney for you.

3 At such a trial, you could not be compelled to
4 testify, and whether you would testify would be a matter in
5 which your judgment alone would control.

6 At such a trial, the United States would be required
7 to prove your guilt beyond a reasonable doubt, and if you were
8 found guilty, you would have the right to appeal that
9 conviction.

10 Do each of you understand that you have and are
11 guaranteed each of those constitutional rights?

12 Mr. Murrell?

13 *DEFENDANT MURRELL:* Yes, sir.

14 *THE COURT:* Mr. Badley?

15 *DEFENDANT BADLEY:* Yes, sir.

16 *THE COURT:* Mr. Lopez?

17 *DEFENDANT LOPEZ:* Yes, sir.

18 *THE COURT:* On the other hand, if you plead guilty
19 and if that guilty plea is accepted by the Court, there will
20 not be a further trial of any kind. So that by pleading
21 guilty, you waive your right to a trial, as well as those
22 rights associated with a trial as we've just discussed.

23 Do you understand, Mr. Murrell?

24 *DEFENDANT MURRELL:* Yes, sir.

25 *THE COURT:* Mr. Badley?

1 *DEFENDANT BADLEY:* Yes, sir.

2 *THE COURT:* And Mr. Lopez?

3 *DEFENDANT LOPEZ:* Yes, sir.

4 *THE COURT:* Generally, a defendant who is accused of
5 a crime cannot plead guilty unless he is actually guilty of
6 that crime. In federal court, it is the judge who determines
7 the penalty when a defendant is convicted, whether that
8 conviction is on the basis of a jury verdict or upon a plea of
9 guilty.

10 The Court has not and will not talk to anyone about
11 the facts of your case, except here in your presence, where
12 you and your attorney and representatives of the government
13 are all present. However, if a guilty verdict is entered, a
14 presentence report will be prepared and the Court may review
15 that report with probation officers outside of your presence.

16 If you plead guilty, you will be convicted; however,
17 you and your attorney each will be given an opportunity to
18 present to the Court any pleas for leniency. The penalty will
19 be decided based upon the facts heard in court.

20 You should never depend or rely upon any promise or
21 statement by anyone, whether connected with law enforcement or
22 the government or anyone else, as to what penalty will be
23 assessed against you.

24 Should you decide to plead guilty, your plea of
25 guilty must not be induced or prompted by any promises,

1 pressure, threats, force, or coercion of any kind. A plea of
2 guilty must be purely voluntary, and you should plead guilty
3 only because you are guilty and for no other reason.

4 Do each of you understand each of my explanations
5 about the consequences and the process involved in pleading
6 guilty?

7 Mr. Murrell?

8 *DEFENDANT MURRELL:* Yes, sir.

9 *THE COURT:* Mr. Badley?

10 *DEFENDANT BADLEY:* Yes, sir.

11 *THE COURT:* Mr. Lopez?

12 *DEFENDANT LOPEZ:* Yes, sir.

13 *THE COURT:* Under the Sentencing Reform Act of 1984,
14 as it has been construed by our Supreme Court, the United
15 States Sentencing Commission has issued advisory guidelines
16 for judges to consider in determining the sentence in a
17 criminal case.

18 Have each of you discussed with your attorney the
19 charges against you, the matter of sentencing, and how those
20 sentencing guidelines might apply in your case?

21 Have you done so, Mr. Murrell?

22 *DEFENDANT MURRELL:* Yes, sir.

23 *THE COURT:* Mr. Badley?

24 *DEFENDANT BADLEY:* Yes, sir.

25 *THE COURT:* And Mr. Lopez?

1 *DEFENDANT LOPEZ:* Yes, sir.

2 *THE COURT:* Even so, I must inform you that in
3 determining a sentence, it is the Court's obligation to
4 calculate the applicable sentencing guideline range, to
5 consider that range along with any possible departures under
6 the guidelines and any other sentencing factors under 18
7 U.S.C. Section 3553(a).

8 The Court is not bound by facts that may be
9 stipulated between you and your attorney on the one hand and
10 the government on the other. The Court can impose punishment
11 that might disregard stipulated facts or take into account
12 facts that are not mentioned in stipulations, and in that
13 event, you might not even be permitted to withdraw your plea
14 of guilty.

15 The Court will not be able to determine the proper
16 guideline range for your case until after that presentence
17 report has been completed and both you and the government have
18 had an opportunity to challenge the facts and the conclusions
19 that are in that report.

20 After the Court has determined the proper guideline
21 range under the facts of your case, the Court has the
22 authority to impose a sentence that is above, below, or within
23 the guideline range as long as the sentence imposed is
24 reasonable and it's based upon the facts and the law.

25 You have the right to appeal the sentence the Court

1 imposes, unless you waive that right.

2 And under some circumstances, the government also
3 has the right to appeal.

4 Finally, I inform you that within the federal
5 system, parole has been abolished, so that if you are
6 sentenced to imprisonment, you will not be released on any
7 federal parole.

8 Do each of you understand all of the explanations
9 I've given with regard to sentencing?

10 Mr. Murrell?

11 *DEFENDANT MURRELL:* Yes, sir.

12 *THE COURT:* Mr. Badley?

13 *DEFENDANT BADLEY:* Yes, sir.

14 *THE COURT:* And Mr. Lopez?

15 *DEFENDANT LOPEZ:* Yes, sir.

16 *THE COURT:* All right. Let me ask you some
17 individual questions at this time.

18 How old are you, Mr. Murrell?

19 *DEFENDANT MURRELL:* 42.

20 *THE COURT:* Mr. Badley?

21 *DEFENDANT BADLEY:* 44.

22 *THE COURT:* Mr. Lopez?

23 *DEFENDANT LOPEZ:* 34.

24 *THE COURT:* And how far did each of you go in
25 school?

1 Mr. Murrell?

2 DEFENDANT MURRELL: I graduated.

3 THE COURT: High school?

4 DEFENDANT MURRELL: Yes, sir.

5 THE COURT: Thank you, sir.

6 Mr. Badley?

7 DEFENDANT BADLEY: Bachelor's.

8 THE COURT: And Mr. Lopez?

9 DEFENDANT LOPEZ: Tenth grade.

10 THE COURT: Are you currently or within the last six
11 months have you been under the care of a physician or a
12 psychiatrist?

13 Mr. Murrell?

14 DEFENDANT MURRELL: No, sir.

15 THE COURT: Mr. Badley?

16 DEFENDANT BADLEY: No, sir.

17 THE COURT: Mr. Lopez?

18 DEFENDANT LOPEZ: No, sir.

19 THE COURT: Have any of you been recently
20 hospitalized or treated for narcotics addiction or alcoholism?

21 Mr. Murrell?

22 DEFENDANT MURRELL: No, sir.

23 THE COURT: Mr. Badley?

24 DEFENDANT BADLEY: No, sir.

25 THE COURT: Mr. Lopez?

1 *DEFENDANT LOPEZ:* No, sir.

2 *THE COURT:* Are you now under the influence of
3 alcohol or any narcotic drug?

4 Mr. Murrell?

5 *DEFENDANT MURRELL:* No, sir.

6 *THE COURT:* Mr. Badley?

7 *DEFENDANT BADLEY:* No, sir.

8 *THE COURT:* Mr. Lopez?

9 *DEFENDANT LOPEZ:* No, sir.

10 *THE COURT:* Do any of you suffer from any emotional
11 or mental disability?

12 Mr. Murrell?

13 *DEFENDANT MURRELL:* No, sir.

14 *THE COURT:* Mr. Badley?

15 *DEFENDANT BADLEY:* No, sir.

16 *THE COURT:* Mr. Lopez?

17 *DEFENDANT LOPEZ:* No, sir.

18 *THE COURT:* Are you of sound mind and do you fully
19 understand what it is we're doing here this afternoon?

20 Mr. Murrell?

21 *DEFENDANT MURRELL:* Yes, I do.

22 *THE COURT:* Mr. Badley?

23 *DEFENDANT BADLEY:* Yes, sir.

24 *THE COURT:* And Mr. Lopez?

25 *DEFENDANT LOPEZ:* Yes, sir.

1 THE COURT: To defense counsel, do you have any
2 reason to believe your client is not fully competent to enter
3 a plea of guilty?

4 Mr. Cox?

5 MR. COX: He's competent, Your Honor.

6 THE COURT: Mr. Donahue?

7 MR. DONAHUE: I do not, Judge.

8 THE COURT: Mr. Alband?

9 MR. ALBAND: No, Your Honor.

10 THE COURT: And do each of you believe that the
11 guilty plea your client proposes to make will be a knowing and
12 voluntary plea?

13 Mr. Cox?

14 MR. COX: Yes, Your Honor.

15 THE COURT: Mr. Donahue?

16 MR. DONAHUE: Yes, Judge.

17 THE COURT: And Mr. Alband?

18 MR. ALBAND: Yes.

19 THE COURT: Now, defendants Badley and Lopez are
20 pleading pursuant to informations, so I need to go over that
21 process with each of you for a moment.

22 You are each charged with felony offenses, and you
23 may not be charged with a felony unless a grand jury finds by
24 the return of an indictment that there's probable cause to
25 believe that the felony occurred and that you committed it.

1 However, you may waive your right to indictment by the grand
2 jury and consent to being charged by way of an information
3 filed by the United States Attorney's Office.

4 The felony charges against Mr. Badley are in a
5 two-count superseding information, and as to Mr. Lopez, a
6 one-count information.

7 If you do not waive indictment and the government
8 wishes to pursue these charges against you, the government
9 must present its case to a grand jury and request the return
10 of an indictment on those charges.

11 A grand jury is composed of at least 16, but not
12 more than 23 persons, and at least 12 grand jurors must find
13 that there is probable cause to believe that you committed the
14 offenses with which you're charged before you would be
15 indicted. So, a grand jury might or it might not indict you
16 on these charges in your informations.

17 But if you waive indictment by the grand jury, the
18 case will proceed against you based on the information filed
19 by the U.S. Attorney just as though you had been indicted.

20 So I ask each of you: Have you discussed with your
21 attorney the matter of waiving your right to indictment by the
22 grand jury, and do you fully understand that right?

23 Mr. Badley?

24 *DEFENDANT BADLEY:* Yes, sir.

25 *THE COURT:* Mr. Lopez?

1 *DEFENDANT LOPEZ:* Yes, sir.

2 *THE COURT:* Have any threats or promises been made
3 in an effort to induce you to waive indictment?

4 Mr. Badley?

5 *DEFENDANT BADLEY:* No, sir.

6 *THE COURT:* Mr. Lopez?

7 *DEFENDANT LOPEZ:* No, sir.

8 *THE COURT:* Is it your signature that appears on the
9 written waiver of indictment in your case that has been filed?

10 Mr. Badley?

11 *DEFENDANT BADLEY:* Yes, sir.

12 *THE COURT:* And Mr. Lopez?

13 *DEFENDANT LOPEZ:* Yes, sir.

14 *THE COURT:* Let me just ask defense counsel, do you
15 have any reason that your client should not waive indictment?

16 Mr. Donahue?

17 *MR. DONAHUE:* No, Judge.

18 *THE COURT:* Mr. Alband?

19 *MR. ALBAND:* No, Your Honor.

20 *THE COURT:* And is such waiver consistent with your
21 advice?

22 Mr. Donahue?

23 *MR. DONAHUE:* It is, Judge.

24 *THE COURT:* And Mr. Alband?

25 *MR. ALBAND:* It is.

1 THE COURT: All right. The Court is satisfied that
2 each of the defendant's waiver of indictment is knowingly and
3 voluntarily made and is accepted here in court.

4 Have you received a copy of that two-count
5 information, Mr. Badley?

6 DEFENDANT BADLEY: Yes, sir.

7 THE COURT: And your information, Mr. Lopez?

8 DEFENDANT LOPEZ: Yes, sir.

9 THE COURT: Okay. Have you received a copy of your
10 indictment, Mr. Murrell?

11 DEFENDANT MURRELL: Yes.

12 THE COURT: All right. Have each of you read or had
13 read to you the charges against you, and do you fully
14 understand the nature of those charges?

15 Mr. Murrell?

16 DEFENDANT MURRELL: Yes, I do.

17 THE COURT: Mr. Badley?

18 DEFENDANT BADLEY: Yes, sir.

19 THE COURT: Mr. Lopez?

20 DEFENDANT LOPEZ: Yes, sir.

21 THE COURT: It would be appropriate at this time for
22 the United States Attorney to read your charges here in open
23 court; however, as a time-saving matter, I will allow you to
24 waive the reading of your charges.

25 Do you wish to waive that reading, Mr. Murrell?

1 *DEFENDANT MURRELL:* Yes.

2 *THE COURT:* Mr. Badley?

3 *DEFENDANT BADLEY:* Yes, sir.

4 *THE COURT:* Mr. Lopez?

5 *DEFENDANT LOPEZ:* Yes, sir.

6 *THE COURT:* You also have the right to have
7 explained to you the essential elements of the offense. This
8 is what the government would be required to prove at your
9 trial. These are set forth in a factual resume, which we're
10 going to get to in a few minutes if you want to look on, but I
11 am going to ask the United States Attorney to now set forth
12 the essential elements as to each offense the defendant
13 proposes to plead guilty.

14 Please listen carefully as your case is called.

15 We'll begin with Mr. Murrell.

16 *MS. WADE:* The government must prove:

17 First, that the defendant knowingly possessed a
18 controlled substance.

19 Second, that the substance was, in fact,
20 methamphetamine.

21 Third, that the defendant possessed the substance
22 with the intent to distribute it.

23 And fourth, that the quantity of the substance
24 involved 50 grams or more of a mixture or substance containing
25 a detectable amount of methamphetamine, a Schedule II

1 controlled substance.

2 *THE COURT:* And Mr. Murrell, do you understand and
3 admit that you committed all of the essential elements of that
4 offense?

5 *DEFENDANT MURRELL:* Yes, sir.

6 *THE COURT:* As to Mr. Badley?

7 *MR. DONAHUE:* Judge, I don't know if this would be
8 appropriate or not, but Mr. Badley would be willing to waive
9 the reading of the charges.

10 *THE COURT:* All right. Of the essential elements?

11 *MR. DONAHUE:* Yes, sir.

12 *THE COURT:* Let me ask you, Mr. Badley, have you
13 reviewed carefully the essential elements of the offense
14 charged against you?

15 *DEFENDANT BADLEY:* Yes, sir.

16 *THE COURT:* Do you understand each of those
17 essential elements?

18 *DEFENDANT BADLEY:* Yes, sir.

19 *THE COURT:* Do you admit that you committed each of
20 the essential elements of the offenses charged in Counts 1 and
21 2 of your superseding information?

22 *DEFENDANT BADLEY:* Yes, sir.

23 *THE COURT:* Are you asking the Court to waive their
24 reading here in open court?

25 *DEFENDANT BADLEY:* Yes, sir.

1 THE COURT: All right. I will grant that.

2 As to Mr. Lopez?

3 DEFENDANT LOPEZ: Yes, sir.

4 MS. WADE: The essential elements are:

5 First, that two or more persons, directly or
6 indirectly, reached an agreement to distribute or possess with
7 intent to distribute a controlled substance as charged in the
8 indictment -- in the information.

9 Second, that the defendant knew of the unlawful
10 purpose of the agreement.

11 Third, that the defendant joined in the agreement
12 willfully, that is, with the intent to further its unlawful
13 purpose.

14 Fourth, that the overall scope of the conspiracy
15 involved a mixture or substance containing a detectable amount
16 of cocaine, a Schedule II controlled substance.

17 And fifth, that the defendant knew or reasonably
18 should have known that the scope of the conspiracy involved a
19 mixture or substance containing a detectable amount of
20 cocaine, a Schedule II controlled substance.

21 THE COURT: All right. Mr. Lopez, do you understand
22 and admit that you committed each of the essential elements of
23 that offense?

24 DEFENDANT LOPEZ: Yes, sir.

25 THE COURT: Each of you are appearing here today

1 with counsel, and you've indicated to me that you have
2 discussed with your attorney the charges against you, the
3 matter of sentencing, and how the sentencing guidelines might
4 apply in your case.

5 Are each of you fully satisfied with the
6 representation and legal advice that you have received from
7 your attorney?

8 Is that true for you, Mr. Murrell?

9 *DEFENDANT MURRELL:* Yes, sir.

10 *THE COURT:* Mr. Badley?

11 *DEFENDANT BADLEY:* Yes, sir.

12 *THE COURT:* Mr. Lopez?

13 *DEFENDANT LOPEZ:* Yes, sir.

14 *THE COURT:* There are plea agreements in each of the
15 cases before the Court, so we need to go over some documents
16 for a minute.

17 For Mr. Badley, I have a document entitled Plea
18 Agreement.

19 For Mr. Murrell and Mr. Lopez, it is Plea Agreement
20 with Waiver of Appeal.

21 I note that there is a waiver of appeal also in
22 Mr. Badley's, it's just not in the title.

23 So, I do not see any supplements, plea agreement
24 supplements, in any of the cases. I will refer to it as your
25 plea agreement or the plea documents.

1 Have each of you read or had read to you your plea
2 document and do you understand the document fully?

3 Mr. Murrell?

4 *DEFENDANT MURRELL:* Yes.

5 *THE COURT:* Mr. Badley?

6 *DEFENDANT BADLEY:* Yes, sir.

7 *THE COURT:* Mr. Lopez?

8 *DEFENDANT LOPEZ:* Yes, sir.

9 *THE COURT:* Is it your signature that you've put on
10 your plea agreement?

11 Mr. Murrell?

12 *DEFENDANT MURRELL:* Yes, sir.

13 *THE COURT:* Mr. Badley?

14 *DEFENDANT BADLEY:* Yes, sir.

15 *THE COURT:* And Mr. Lopez?

16 *DEFENDANT LOPEZ:* Yes, sir.

17 *THE COURT:* By placing your signature upon this
18 document, are you asking the Court to accept and approve your
19 agreement with the government?

20 Mr. Murrell?

21 *DEFENDANT MURRELL:* Yes.

22 *THE COURT:* Mr. Badley?

23 *DEFENDANT BADLEY:* Yes, sir.

24 *THE COURT:* Mr. Lopez?

25 *DEFENDANT LOPEZ:* Yes, sir.

1 THE COURT: As I indicated, there's a waiver of
2 appeal paragraph in each plea agreement. It's paragraph 10 in
3 each of the agreements. I just want to direct your attention
4 specifically to that paragraph and ask you:

5 Did you read and fully understand your waiver of
6 appeal paragraph?

7 Mr. Murrell?

8 DEFENDANT MURRELL: Yes, sir.

9 THE COURT: Mr. Badley?

10 DEFENDANT BADLEY: Yes, sir.

11 THE COURT: Mr. Lopez?

12 DEFENDANT LOPEZ: Yes, sir.

13 THE COURT: Did you discuss it with your attorney,
14 Mr. Murrell?

15 DEFENDANT MURRELL: Yes, I did.

16 THE COURT: And Mr. Badley?

17 DEFENDANT BADLEY: Yes, sir.

18 THE COURT: Mr. Lopez?

19 DEFENDANT LOPEZ: Yes, sir.

20 THE COURT: Do you knowingly and voluntarily waive
21 your right to appeal as set forth in paragraph 10 of your plea
22 agreement?

23 Mr. Murrell?

24 DEFENDANT MURRELL: Yes.

25 THE COURT: Mr. Badley?

1 *DEFENDANT BADLEY:* Yes, sir.

2 *THE COURT:* Mr. Lopez?

3 *DEFENDANT LOPEZ:* Yes, sir.

4 *THE COURT:* Are all of the terms of your agreement
5 with the government set forth in the written plea agreement?
6 Mr. Murrell?

7 *DEFENDANT MURRELL:* Yes, sir.

8 *THE COURT:* Mr. Badley?

9 *DEFENDANT BADLEY:* Yes, sir.

10 *THE COURT:* Mr. Lopez?

11 *DEFENDANT LOPEZ:* Yes, sir.

12 *THE COURT:* And did you voluntarily and of your own
13 free will enter into this plea agreement with the government?
14 Mr. Murrell?

15 *DEFENDANT MURRELL:* Yes, sir.

16 *THE COURT:* Mr. Badley?

17 *DEFENDANT BADLEY:* Yes, sir.

18 *THE COURT:* And Mr. Lopez?

19 *DEFENDANT LOPEZ:* Yes, sir.

20 *THE COURT:* Other than the written plea agreement,
21 has anyone made any promise or assurance to you of any kind in
22 an effort to induce you to enter a plea of guilty in your
23 case?

24 Mr. Murrell? Do you need me to repeat it?

25 *DEFENDANT MURRELL:* Yes.

1 THE COURT: Other than what's in this written plea
2 agreement, has anyone made any promise or assurance to you of
3 any kind in an effort to induce you to enter a plea of guilty
4 in your case?

5 DEFENDANT MURRELL: No, sir.

6 THE COURT: Okay. And Mr. Badley?

7 DEFENDANT BADLEY: No, sir.

8 THE COURT: Mr. Lopez?

9 DEFENDANT LOPEZ: No, sir.

10 THE COURT: All right. I note that each of the plea
11 agreements are on file in each of your cases.

12 I do need to ask: Has anyone mentally, physically,
13 or in any other way attempted to force you to plead guilty in
14 your case?

15 Mr. Murrell?

16 DEFENDANT MURRELL: No, sir.

17 THE COURT: Mr. Badley?

18 DEFENDANT BADLEY: No, sir.

19 THE COURT: Mr. Lopez?

20 DEFENDANT LOPEZ: No, sir.

21 THE COURT: Do each of you understand that if your
22 plea of guilty is accepted, you will be adjudged guilty of the
23 charge or charges against you, and your punishment will be
24 assessed somewhere within the range of punishment that is
25 provided by legal statute?

1 Do you understand, Mr. Murrell?

2 DEFENDANT MURRELL: Yes, sir.

3 THE COURT: Mr. Badley?

4 DEFENDANT BADLEY: Yes, sir.

5 THE COURT: And Mr. Lopez?

6 DEFENDANT LOPEZ: Yes, sir.

7 THE COURT: Are you a citizen of the United States,
8 Mr. Murrell?

9 DEFENDANT MURRELL: Yes, I am.

10 THE COURT: Mr. Badley?

11 DEFENDANT BADLEY: Yes, sir.

12 THE COURT: Mr. Lopez?

13 DEFENDANT LOPEZ: Yes, sir.

14 THE COURT: So, as citizens, I need to inform you
15 that the offense to which you're pleading guilty is a felony,
16 and conviction of a felony may deprive you of valuable rights
17 of your citizenship, such as the right to vote, to hold public
18 office, to ever serve on a jury, to ever possess any kind of
19 firearm, and other valuable rights.

20 Do each of you understand that consequence?

21 Mr. Murrell?

22 DEFENDANT MURRELL: Yes, sir.

23 THE COURT: Mr. Badley?

24 DEFENDANT BADLEY: Yes, sir.

25 THE COURT: And Mr. Lopez?

1 *DEFENDANT LOPEZ:* Yes, sir.

2 *THE COURT:* I'm going to once again call upon the
3 United States Attorney to now state the potential penalties
4 for and consequences of conviction for the charge to which
5 each defendant proposes to plead guilty.

6 *MS. WADE:* For Mr. Murrell: A \$5 million fine; and
7 not less than 5 years imprisonment and not more than 40 years
8 imprisonment; plus a term of supervised release of not less
9 than 4 years; if the defendant violates any condition of
10 supervised release, the Court may revoke such term of
11 supervised release and require the defendant to serve an
12 additional period of confinement; further, the Court must
13 impose a mandatory special assessment of \$100.

14 *THE COURT:* Mr. Murrell, do you understand that if
15 you plead guilty, you may be subject to those penalties and
16 consequences just explained?

17 *DEFENDANT MURRELL:* Yes, sir.

18 *THE COURT:* All right. As to Mr. Badley.

19 *MS. WADE:* As to Count 1 of his superseding
20 information includes: Imprisonment for a period not to exceed
21 5 years; a fine not to exceed \$250,000, or both such fine and
22 imprisonment; a term of supervised release of not more than 3
23 years, which may be mandatory under the law and will follow
24 any term of imprisonment; if the defendant violates the
25 conditions of supervised release, the Court may revoke such

1 release term and the defendant would be imprisoned for an
2 additional term of confinement; multiple revocations of
3 supervised release may result in a term of imprisonment that
4 exceeds the maximum term of supervised release; a mandatory
5 special assessment of \$100; restitution to victims or to the
6 community, which may be mandatory under the law; and costs of
7 incarceration and supervision.

8 As to Count 2: A term of imprisonment for not more
9 than 20 years; a fine up to the amount of \$250,000, or twice
10 the pecuniary gain or twice the pecuniary loss; a term of
11 supervised release of 5 years up to any term of years to life;
12 if the defendant violates any condition of the term of
13 supervised release, the Court may revoke such release term and
14 require that the defendant serve an additional period of
15 confinement; a mandatory special assessment of \$100.

16 Unless the Court finds the defendant to be indigent,
17 an additional mandatory special assessment of \$5,000 must also
18 be imposed pursuant to 18 U.S.C. Section 3014 for offenses
19 occurring on or after May 29th, 2015; an assessment of up to
20 \$17,000 pursuant to 18 U.S.C. Section 2259A; restitution of
21 not less than 3,000 per victim, which is mandatory under the
22 law --

23 *THE COURT:* You may skip 8.

24 *MS. WADE:* Costs of incarceration and supervision.

25 *THE COURT:* All right. Mr. Badley, do you

1 understand that if you plead guilty, you may be subject to the
2 penalties and consequences just explained to you and as set
3 forth in your factual resume?

4 *DEFENDANT BADLEY:* Yes, sir.

5 *THE COURT:* And then finally as to Mr. Lopez.

6 *DEFENDANT LOPEZ:* Yes, sir.

7 *MS. WADE:* Imprisonment for a period of not more
8 than 20 years; a fine not to exceed \$1 million, or both a fine
9 and imprisonment; a mandatory term of supervised release of at
10 least 3 years, which is mandatory under the law and will
11 follow any term of imprisonment; revocation of the term of
12 supervised release could result in an additional period of
13 confinement; the effect of a revocation of a term of
14 supervised release is to make the overall period of
15 incarceration longer; a \$100 mandatory special assessment;
16 costs of incarceration and supervision; and restitution to the
17 victim or to the community, which may be mandatory under the
18 law, and which defendant agrees may include restitution
19 arising from all relevant conduct not limited to that arising
20 from the offense of conviction alone.

21 *THE COURT:* Now, Mr. Lopez, do you understand that
22 if you plead guilty, you may be subject to the penalties and
23 the consequences just explained?

24 *DEFENDANT LOPEZ:* Yes, sir.

25 *THE COURT:* Do each of you understand that if the

1 sentence you receive is more severe than you might expect,
2 you'll still be bound by your plea of guilty, and you'll have
3 no right to withdraw it?

4 Mr. Murrell?

5 *DEFENDANT MURRELL:* Yes, sir.

6 *THE COURT:* Mr. Badley?

7 *DEFENDANT BADLEY:* Yes, sir.

8 *THE COURT:* And Mr. Lopez?

9 *DEFENDANT LOPEZ:* Yes, sir.

10 *THE COURT:* There is language in each plea agreement
11 to the effect that the government will not bring additional
12 charges or will dismiss other pending charges at your
13 sentencing. Therefore, the district judge must decide whether
14 to accept each of your plea agreements. If the Court were to
15 reject your agreement, you would then have the right to
16 withdraw your guilty plea and change it to not guilty.

17 Do you understand, Mr. Murrell?

18 *DEFENDANT MURRELL:* Yes, sir.

19 *THE COURT:* Mr. Badley?

20 *DEFENDANT BADLEY:* Yes, sir.

21 *THE COURT:* And Mr. Lopez?

22 *DEFENDANT LOPEZ:* Yes, sir.

23 *THE COURT:* All right. Do any of you have any
24 questions about anything that we've talked about up to this
25 point?

1 Mr. Murrell?

2 DEFENDANT MURRELL: No, sir.

3 THE COURT: Mr. Badley?

4 DEFENDANT BADLEY: No, sir.

5 THE COURT: Mr. Lopez?

6 DEFENDANT LOPEZ: No, sir.

7 THE COURT: Then having heard all of the foregoing,
8 I now ask:

9 How do you plead to the one-count indictment against
10 you, Mr. Murrell, guilty or not guilty?

11 DEFENDANT MURRELL: Guilty.

12 THE COURT: Mr. Badley, how do you plead to Counts 1
13 and 2 of the two-count superseding information against you?

14 DEFENDANT BADLEY: Guilty.

15 THE COURT: I will enter a plea of guilty as to each
16 count in that superseding information.

17 And then, Mr. Lopez, how do you plead to the
18 one-count information against you, guilty or not guilty?

19 DEFENDANT LOPEZ: Guilty.

20 THE COURT: To each defense counsel, is the guilty
21 plea of your client consistent with your advice?

22 Mr. Cox?

23 MR. COX: Yes, Your Honor.

24 THE COURT: Mr. Donahue?

25 MR. DONAHUE: Yes, Judge.

1 THE COURT: And Mr. Albond?

2 MR. ALBAND: It is.

3 THE COURT: Then I will accept each of the pleas
4 before the Court on the condition that there is a factual
5 basis to support such pleas, and I do have factual resumes in
6 each of the cases that appear to be signed by each defendant
7 and his counsel.

8 Is it your signature on your factual resume?

9 Mr. Murrell?

10 DEFENDANT MURRELL: Yes.

11 THE COURT: Mr. Badley?

12 DEFENDANT BADLEY: Yes, sir.

13 THE COURT: And Mr. Lopez?

14 DEFENDANT LOPEZ: Yes, sir.

15 THE COURT: Did each of you read or have read to you
16 your factual resume, and do you fully understand this
17 document?

18 Mr. Murrell?

19 DEFENDANT MURRELL: Yes, sir.

20 THE COURT: Mr. Badley?

21 DEFENDANT BADLEY: Yes, sir.

22 THE COURT: Mr. Lopez?

23 DEFENDANT LOPEZ: Yes, sir.

24 THE COURT: Are the facts that are stated in your
25 factual resume true and correct?

1 Mr. Murrell?

2 DEFENDANT MURRELL: Yes.

3 THE COURT: Mr. Badley?

4 DEFENDANT BADLEY: Yes, sir.

5 THE COURT: Mr. Lopez?

6 DEFENDANT LOPEZ: Yes, sir.

7 THE COURT: To defense counsel, are the facts that
8 are set forth in your client's factual resumes consistent with
9 the true facts as you understand them from your investigation?

10 Mr. Cox?

11 MR. COX: Yes, Your Honor.

12 THE COURT: Mr. Donahue?

13 MR. DONAHUE: Yes, Judge.

14 THE COURT: And Mr. Alband?

15 MR. ALBAND: Yes, Your Honor.

16 THE COURT: It would be appropriate at this time for
17 the stipulated facts out of each factual resume to be read
18 here in open court; however, based on the answers I've
19 received from each defendant and counsel regarding those
20 facts, as a time-saving matter, I will allow you to waive the
21 reading of your facts.

22 Do you wish to waive that reading, Mr. Murrell?

23 DEFENDANT MURRELL: Yes, sir.

24 THE COURT: Mr. Badley?

25 DEFENDANT BADLEY: Yes, sir.

1 THE COURT: And Mr. Lopez?

2 DEFENDANT LOPEZ: Yes, sir.

3 THE COURT: I will not require them to be read. I
4 note that each factual resume is on file in your case.

5 The Court being satisfied with the responses given
6 during this hearing finds that each defendant is fully
7 competent and capable of entering an informed plea, and that
8 his plea of guilty to the charge or charges against him are
9 knowing and voluntary pleas supported by an independent basis
10 in fact containing each of the essential elements of the
11 offense as charged against the defendant.

12 I hereby accept each of your pleas of guilty, and I
13 pronounce you guilty to the offenses to which you have pled.

14 Now, as I indicated earlier in the proceeding, a
15 presentence report will be prepared to assist the Court in
16 sentencing. You will be asked to give information for that
17 report, and your degree of cooperation could be a factor in
18 the severity of the sentence you receive.

19 Your attorney is ordered to be present at your
20 interview, having a recent familiarity with the sentencing
21 guidelines, and, specifically, Section 3E1.1, application note
22 1(a).

23 A copy of that presentence referral form will be
24 provided to you well in advance of the date of your
25 sentencing, and you'll have an opportunity to make comments on

1 it or any objections to it.

2 Because I have conducted this hearing, rather than
3 the district judge in your case, I'm making a written report
4 to your district judge telling him what you have said and done
5 here today and what I have found.

6 I also tell you that if you or your attorney have
7 any objections to anything that I've said or done, those
8 objections must be filed within 14 days from the date of this
9 hearing.

10 My clerk will deliver the presentence referral form
11 to the probation office. A copy of that form has been
12 provided to each defense counsel, and I simply remind counsel
13 of your responsibility to contact the probation office as soon
14 as practicable for further instruction regarding the
15 presentence investigation.

16 Each of these matters are scheduled to be sentenced
17 on February 5, 2021, at 9:00 a.m. before the Honorable Judge
18 Reed O'Connor. That will be in the second floor courtroom.

19 Mr. Badley and Mr. Lopez are in the custody of the
20 United States Marshal. It's appropriate you remain in that
21 custody going forward.

22 As to Mr. Murrell, you have been on conditions of
23 release; however, you've not been in full compliance with
24 those conditions, so at this time I remand you to the custody
25 of the United States Marshal pending further proceedings in

1 your case.

2 Are there any other matters to consider in
3 connection with the defendants before the Court?

4 From the government?

5 *MS. WADE:* No, Your Honor.

6 *THE COURT:* From any defendant?

7 *MR. DONAHUE:* No, Judge.

8 *MR. ALBAND:* No, Your Honor.

9 *THE COURT:* That's a no? I'll take silence as a no.

10 Defendants are remanded to the custody of the United
11 States Marshal. The attorneys are excused.

12 *COURT SECURITY OFFICER:* All rise.

13 *MR. COX:* Judge, for Mr. Murrell, he come in
14 compliance. I don't know if that makes a difference to the
15 Court.

16 *THE COURT:* I'm sorry, I couldn't hear you.

17 *MR. COX:* He has come into compliance with the --
18 come into compliance. That was taken right after he got
19 released. Those positive drug tests were right after he was
20 released, and he was not --

21 *THE COURT:* Well, right after he was released, but
22 it's not like it's marijuana that was in his system for 30
23 days. It's cocaine. So that would have to be --

24 (Defendant motioning)

25 *THE COURT:* I don't know that you want to speak

1 right now, but -- I'll tell you what. Let me go ahead -- I'll
2 hear you out for a moment.

3 Let me remand Mr. Badley and Mr. Lopez to the
4 custody of the marshal, and I'll hear from you in just a
5 moment, Mr. Cox.

6 The attorneys are excused to the extent they don't
7 have further business before the Court.

8 (Two defendants exiting courtroom)

9 *THE COURT:* All right. So, we're still on the
10 record as to United States versus Mr. Derrick Murrell.

11 This is an offense to which I need to find by clear
12 and convincing evidence that he will not present a risk of
13 flight or nonappearance or a danger to the community in order
14 to allow him to remain out on his conditions.

15 I show that he was arrested on August 20 -- no, I'm
16 sorry, August 26, 2020, shows to be the arrest date.

17 And then what I'm seeing in this report is that
18 September 14th, there was a urine specimen at Taft Counseling
19 Center in Wichita Falls that tested positive for cocaine and
20 marijuana.

21 So, I will hear from the defense, but the clear and
22 convincing evidence may be difficult for you.

23 *MR. COX:* Well, Judge, it looks like he was released
24 on September 2nd from custody, September 3rd, and it looks
25 like his first UA was that way. His second UA or the

1 subsequent UAs that they had have not had anything in them.

2 He is -- he has provided substantial assistance to
3 the government since that date as well, and so we believe that
4 he's not a danger to the community. We believe he's not a
5 flight risk, and that he will make all of his court
6 appearances.

7 *THE COURT:* Does the government have a position on
8 the issue before the Court?

9 *MS. WADE:* Your Honor, we would defer to the Court.

10 *THE COURT:* I know it's Mr. Smith's case, so you
11 probably weren't briefed on it. Do you know what his position
12 is?

13 *MS. WADE:* I was not, Your Honor. I don't know that
14 he was aware that this would be requested to be revisited by
15 the defense, and so I'm not aware of his position in regards
16 to this. I can --

17 *MR. COX:* I talked to him. He told me he would
18 defer to the Court, too. He would leave it up to the Court.

19 *THE COURT:* Well, what are you doing for a living,
20 Mr. Murrell? Are you working?

21 *DEFENDANT MURRELL:* At the moment, yes. Yes, we
22 are. Yes, I am.

23 *THE COURT:* What are you doing?

24 *DEFENDANT MURRELL:* We're working on our food truck.
25 We have a food truck and at the moment we -- after the LLC

1 come through, once that come through, we'll be in full
2 compliance but --

3 *THE REPORTER:* But what?

4 *THE COURT:* You're going to have to lower your mask
5 for a minute. There you go.

6 *DEFENDANT MURRELL:* We have been getting the LLC
7 together, so we can have our truck in full compliance with the
8 permits and everything, and we'll be working. It should be in
9 operation within the next two to three weeks with my mother
10 and I.

11 *THE COURT:* Your mom? What kind of food?

12 *UNIDENTIFIED FEMALE:* I would --

13 *THE COURT:* Not you.

14 *UNIDENTIFIED FEMALE:* I'm sorry.

15 *DEFENDANT MURRELL:* Soul food, sir.

16 *THE COURT:* Okay. You know, I tell you when I put
17 you on these things that I expect full compliance, and there's
18 cocaine use between when I let you out and your first test on
19 the 14th. There's just no question about it. It couldn't
20 have been in your system that long. Marijuana, I understand,
21 that probably was in your system from before.

22 *MR. COX:* Judge, they also told him it was a very
23 low level, and he got some evidence together for that debrief
24 and possibly could have gotten it on his hands, I don't know.
25 They said it was a very low level.

1 THE COURT: All right. Well, the government's not
2 jumping up and down right now, so I'm going to take the
3 proffered evidence that I received from your counsel as true.

4 Understand you're on a very short, short leash now,
5 right?

6 DEFENDANT MURRELL: Yes, Your Honor.

7 THE COURT: You've kept it straight for a couple of
8 months, so I'm going to give you credit for that, but any time
9 between now and your sentencing date, if there's any stumbles
10 at all, I'm not even going to hesitate.

11 Do you understand?

12 DEFENDANT MURRELL: Yes, sir.

13 THE COURT: All right.

14 DEFENDANT MURRELL: Thank you.

15 THE COURT: Good luck with your business. I hope
16 you and your mom get it off the ground. I will change the
17 decision and I will allow you to remain out on conditions of
18 release and find by clear and convincing evidence that you
19 will not prevent a risk of flight or nonappearance or a danger
20 to this community if allowed to remain out.

21 Where are you going to park your truck?

22 DEFENDANT MURRELL: By the base in Wichita Falls, by
23 the Air Force base.

24 THE COURT: Too far for me. All right. I'll let my
25 colleagues up there enjoy it.

1 All right. The defendant is ordered released by the
2 marshals after any appropriate processing, I doubt there is
3 any, and the attorneys are excused.

4 COURT SECURITY OFFICER: All rise.

5 THE COURT: Good luck, Mr. Murrell.

6 DEFENDANT MURRELL: Yes, sir. Thank you.

7 THE COURT: I don't do that often.

8 (End of Proceedings)

9 **REPORTER'S CERTIFICATE**

10 I, Debra G. Saenz, CSR, RMR, CRR, certify that the
11 foregoing is a true and correct transcript from the record
of proceedings in the foregoing entitled matter.

12 Further, due to the COVID-19 pandemic, participants wore
13 masks or were heard via videoconference, so proceedings were
transcribed to the best of my ability.

14 I further certify that the transcript fees format
15 comply with those prescribed by the Court and the Judicial
Conference of the United States.

Signed this 31st day of January, 2022.

16 /s/ Debra G. Saenz

17 DEBRA G. SAENZ, CSR, RMR, CRR
18 Texas CSR No. 3158
19 Official Court Reporter
The Northern District of Texas
Fort Worth Division

20
21 CSR Expires: 1/31/2024

22 Business Address: 501 W. 10th Street, Room 507
Fort Worth, Texas 76102

23 Telephone: 817.850.6661

24 E-Mail Address: debbie.saenz@yahoo.com
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2nd [1] 39/24	Admonishments [1] 3/3	are [47]
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36 [1] 3/5	27/23 33/9 33/13 33/18 36/8 36/11	ask [9] 5/10 13/16 17/20 18/14 20/11
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4	32/15	assessed [2] 10/23 27/24
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